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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

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MAY 12 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Amendment of Section 73.202(b))

Table of Allotments)

FM Broadcast Stations)

(Panacea, Quincy and)

Midway, Florida))

MM Docket 93-229

RM-8296

RM-8463

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

MOTION TO ACCEPT LATE FILED REPLY COMMENTS

Leah R. James and John L. James ("WTPS"), successor in interest to Bitner-James Partnership, permittee of Station WTPS(FM), Quincy, Florida, hereby seek leave to file reply comments to the "Comments on Counterproposal" filed by Catamount Communications, Inc. ("Catamount"), on May 5, 1994, based upon recent events. Catamount's comments related to WTPS' then pending applications for extension of time to construct (BMPH-930929JG) and for assignment of the construction permit (BAPH-930702GK). Specifically, Catamount argued that WTPS' permit could not be modified to specify Channel 264C3 at Midway, Florida, unless and until its construction permit deadline was extended. It also asserted that the then pending assignment

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application involved issues related to the James' basic qualifications to hold the WTPS permit.

On April 6, 1995, the Chief, Audio Services Division, granted both applications for the assignment of permit (Form 314) and extension of time to construct (Form 307). In doing so, each of the issues raised by Catamount are now moot having been resolved in WTPS' favor.

WTPS saw no purpose in responding to Catamount's comments at an earlier date because the matters were pending and were not appropriate for resolution in the rule making context. Thus, any response by WTPS as to the outcome of the matters pending before the Commission staff would have been based on speculation until the matters raised in the pending applications were resolved. Unfortunately, the Commission staff did not act on the pending applications for a period of approximately 21 months (to grant the Form 314 application) and approximately 18 months (to grant the Form 307 application). As a result of these delays, WTPS was forced to delay its response to report that the matters are no longer obstacles to a grant of the WTPS proposal to allot Channel 264C3 to Midway and modify WTPS' permit accordingly. Thus, the Commission can consider the attached reply pleading based on the new development that the Commission has resolved all pending matters in WTPS' favor. The Allocations Branch can now render a decision based on a complete record. See e.g., Grenada, Mississippi, et al., 7 FCC Rcd 56

(Alloc. Br. 1992), Bowling Green, Kentucky, et al., 9 FCC Rcd 2097 (Alloc. Br. 1993) at note 3; and Section 1.425 of the Commission's Rules.

Accordingly, WTPS respectfully seeks leave to file the separate reply pleading in this proceeding.

Respectfully submitted,

**LEAH R. JAMES and
JOHN L. JAMES**

By:


Mark N. Lipp

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May 2, 1995

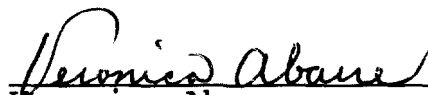
CERTIFICATE OF SERVICE

I, Veronica Abarre, a secretary in the law firm of Mullin, Rhyne, Emmons and Topel, P.C., do hereby certify that I have, on this 2nd day of May, 1995, sent by first-class U.S. Mail, postage prepaid, copies of the foregoing "MOTION TO ACCEPT LATE FILED REPLY COMMENTS" to the following:

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